

VII. LEA ELIGIBILITY

1. HEARINGS RELATED TO LEA ELIGIBILITY

It is the policy of the Department of Elementary and Secondary Education to provide a local school district or public agency with notice and an opportunity for a hearing prior to disapproval of an entitlement application under Part B of the Individuals with Disabilities Education Act. The provisions of this section shall apply if any of the following actions are taken by the Department of Elementary and Secondary Education in reference to a local school district or public agency application:

- A. disapproval of or failure to approve the application or project in whole or in part; or,
- B. failure to provide funds and amounts in accordance with the requirements of statutes and regulations.

Appeal by an applicant must be based upon an allegation that these actions by the Department of Elementary and Secondary Education violate state or federal statute or regulation. The Department shall provide a local school district or public agency with notice of intent to disapprove the application. That notice shall contain:

- A. a statement of the basis upon which the Department proposes to disapprove the application;
- B. possible options for resolving the issue;
- C. how the applicant can request a hearing not later than thirty (30) days from receipt of the notice of proposed disapproval; and,
- D. information about the proposed procedures to be followed in the hearing.

This notice shall be transmitted to the applicant by certified mail with return receipt requested.

Requests for a hearing pursuant to this section shall be in writing and shall be directed to the Office of the Commissioner of Education.

Within thirty (30) days of the date of receipt of the appeal request, the Commissioner of Education or a designee shall conduct a hearing on the record on the proposed action. No later than ten (10) days after the hearing, the Commissioner or a designee shall issue a written ruling, including findings of fact and a reason for the ruling. If the Department of Elementary and Secondary Education determines that its action was contrary to state or federal statutes or regulations, which govern the applicable program, the Department of Elementary and Secondary Education, shall rescind its action.

The ruling by the Commissioner of Education or a designee shall be final unless appealed pursuant to Education Division General Administrative Regulations which provides that notice of appeal must be filed with the Office of the Secretary of Education within twenty (20) days after the applicant receives notice of the decision. The decision of the Commissioner of Education shall contain a description of the applicant's right of appeal and shall be forwarded by certified mail with return receipt requested.

The Department shall make available at reasonable times and places to each applicant all records pertaining to any review or appeal that the applicant is conducting under this section, including the records of other applicants.

Failure to Provide Free Appropriate Public Education (FAPE)

The hearing procedure described in this section will be used when a district is determined to be unwilling or unable to provide a Free Appropriate Public Education (FAPE) as described in Regulation IV.1.

2. SEA IMPLEMENTATION OF SAFEGUARDS/LOCAL COMPLIANCE PLAN

The Missouri Department of Elementary and Secondary Education informs each public agency of its responsibility for ensuring the effective implementation of procedural safeguards for the children with disabilities served by that public agency through the dissemination of this State Plan to each public agency in the State.

The Missouri Department of Elementary and Secondary Education also requires each public agency to submit to the Missouri Department of Elementary and Secondary Education a written compliance plan which describes the public agency's plan for compliance with state and federal requirements for identifying and serving all children with disabilities. Public agencies must implement their compliance plans as approved by the Division of Special Education. Public agencies must update the compliance plan as required by the Division of Special Education.

Each public agency responsible for the provision of special education and related services must include in its local Compliance Plan assurances, which demonstrate that:

- A. children with disabilities have available to them the variety of educational programs and services available to children without disabilities in the area served by the public agency; and,
- B. children with disabilities have available to them nonacademic and extracurricular services and activities in such a manner as is necessary to afford them with an equal opportunity for participation in those services and activities. These services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to persons with disabilities, and employment of students including both employment by the public agency and assistance in making outside employment available.

The plan must include administrative procedures that have been adopted by the public agency's board of education or governing board and include the following components:

- A. certification statement assuring that the approved compliance plan governs the provision of special education services within the public agency;
- B. local compliance policies and assurances of compliance with and implementation of the provisions of Missouri statutes and regulations governing special education; and,
- C. a description of the public agency's administrative procedures which govern student identification including:
 - 1) child find activities to inform the citizenry of rights and needs of children with disabilities;
 - 2) an annual census of children with disabilities and suspected disabilities birth to twenty-one (21) years residing in the public agency's jurisdiction;
 - 3) a description of procedures for confidentiality of records and records management to include: informing the public about access rights, release of

- information, destruction of records, and training for persons collecting or using personally identifiable data; and,
- 4) a comprehensive evaluation and identification process addressing procedural safeguards, and eligibility criteria for determination of specific disability conditions.
- D. Administrative procedures which govern the development and implementation of Individualized Educational Programs including participants, required contents of the IEP, timelines for implementation, and procedures for assuring placement in the least restrictive environment.
- E. Administrative procedures that govern the public agency's consultation with representatives of private schools serving children with disabilities who live within the jurisdiction of the public agency to assure the development of a plan to identify and provide special education services to children with disabilities enrolled by their parents in private schools.
- F. Administrative procedures, which govern the implementation of an evaluation plan to determine the effectiveness of the public agency's special education services. The plan shall, at a minimum, include an evaluation of the district's performance on each of the State's performance goals for children with disabilities.